

AMENDED IN ASSEMBLY MAY 13, 2002

AMENDED IN ASSEMBLY APRIL 9, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2486**

**Introduced by Assembly Member Keeley**

February 21, 2002

---

An act to amend ~~Sections 25514.5 and~~ *Section* 25515.2 of the Health and Safety Code, to amend Sections 14300, 14301, 14303, 14304, 14306, 14307, 14314, and 14315 of, to amend the heading of Title 13 (commencing with Section 14300) of Part 4 of, to amend the headings of Chapter 2 (commencing with Section 14304) and Chapter 3 (commencing with Section 14306) of Title 13 of Part 4 of, to amend and renumber the heading of Chapter 6 (commencing with Section 14314) of Title 13 of Part 4 of, to add Section 14308 to, to add Chapter 4 (commencing with Section 14309) to Title 13 of Part 4 of, and to repeal Chapter 4 (commencing with Section 14308) and Chapter 5 (commencing with Section 14309) of Title 13 of Part 4 of, the Penal Code, relating to environmental prosecution.

LEGISLATIVE COUNSEL'S DIGEST

AB 2486, as amended, Keeley. Environmental prosecution.

Under existing law, there are various specialized hazardous materials enforcement and training programs. In particular, existing law provides for special local toxics prosecutions projects funded by grants from the Director of Toxic Substance Control. In addition, money has been provided in the Budget Act for several years for an environmental

circuit prosecutor through the Secretary of the California Environmental Protection Agency.

This bill would recast the provisions concerning training and prosecution assistance programs for hazardous materials law enforcement to reflect a broader focus on environmental law. It would move responsibility for these programs from the Department of Toxic Substances Control and its director to the California Environmental Protection Agency and its secretary. It would rename the account into which funds for these programs are directed, and would transfer the balance of the existing account to the newly named account on a specified date. This bill would provide the Commission on Peace Officer Standards and Training 12 months to develop or review and certify specified environmental law training programs. It would remove specification from the course of instruction for public prosecutors which is required to be developed and implemented by the California District Attorneys' Association, and recast the description of the enforcement investigative personnel for whom that association is to develop and implement a course or courses of instruction.

This bill would repeal other existing provisions providing grants for the development by one or more statewide organizations with specified qualifications of another training program, and would repeal the provisions authorizing the awarding of grants for special local toxics prosecution projects. This bill would codify the Environmental Circuit Prosecutor Project, intended to discourage environmental law violations, with a fair, uniform, and effective statewide prevention, enforcement, and prosecution program, and to better integrate environmental prosecution into the criminal justice system, as specified. This bill would specify the division of funds provided to various aspects of the new program. This bill would require a report to the Governor and the Legislature, which is currently required concerning special local toxics prosecution projects, be provided instead concerning the environmental prosecution projects funded by this bill, and it would reduce the scope of that report.

Under existing law, businesses are required to have response plans for releases of specified hazardous materials, and are required to provide an annual inventory of hazardous materials handled, as specified. A portion of the civil and criminal penalties assessed for violations of these laws are made available for expenditure on the toxics training and prosecution projects described above.



This bill would ~~repeal existing law requiring that certain civil penalties assessed from businesses for violating the laws requiring response plans for releases of specified hazardous materials, and providing for an annual inventory of hazardous materials handled, go to support the local toxics training and prosecution projects. It would provide that specified penalties from criminal violations of the law regarding release response plans and hazardous materials inventories shall be deposited in the newly created account to support environmental training and enforcement, rather than the repealed account.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. ~~Section 25514.5 of the Health and Safety Code~~
- 2 ~~is amended to read:~~
- 3     ~~25514.5. (a) Notwithstanding Section 25514, any business~~
- 4 ~~which violates this article is civilly liable to an administering~~
- 5 ~~agency for an administrative civil penalty, in an amount which~~
- 6 ~~shall be set by the governing body of the administering agency, but~~
- 7 ~~not greater than two thousand dollars (\$2,000) for each day in~~
- 8 ~~which the violation occurs. If the violation results in, or~~
- 9 ~~significantly contributes to, an emergency, including a fire or~~
- 10 ~~health or medical problem requiring toxicological, health, or~~
- 11 ~~medical consultation, the business shall also be assessed the full~~
- 12 ~~cost of the county, city, fire district, local EMS agency designated~~
- 13 ~~pursuant to Section 1797.200, or poison control center as defined~~
- 14 ~~by Section 1797.97, emergency response, as well as the cost of~~
- 15 ~~cleaning up and disposing of the hazardous materials, or acutely~~
- 16 ~~hazardous materials.~~
- 17     ~~(b) Notwithstanding Section 25514, any business that~~
- 18 ~~knowingly violates this article after reasonable notice of the~~
- 19 ~~violation is civilly liable for an administrative penalty, in an~~
- 20 ~~amount which shall be set by the governing body of the~~
- 21 ~~administering agency, but not greater than five thousand dollars~~
- 22 ~~(\$5,000) for each day in which the violation occurs.~~
- 23     ~~(c) An administering agency shall collect the penalty imposed~~
- 24 ~~by this section pursuant to Section 25514.6.~~

~~(d) A penalty shall not be recoverable pursuant to this section and Section 25514 for the same violation.~~

~~(e) The purpose of this section and Section 25514.6 is to provide local agencies with an alternative and effective means of enforcing public laws on the handling of hazardous materials and acutely hazardous materials.~~

~~(f) In assessing the civil penalty, the administering agency shall consider the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, the frequency of past violations, any action taken to mitigate the violation, and the financial burden to the violator.~~

~~(g) Notwithstanding Section 25515.2, all penalties collected pursuant to this section shall be apportioned in the following manner:~~

~~(1) Seventy-five percent to the administering agency which shall reimburse the county, city, fire district, local EMS agency, as designated pursuant to Section 1797.200 or the poison control center, as defined by Section 1797.97, for that portion of the penalty designated for the expenses of the county, city, fire district, local EMS agency or poison control center, respectively.~~

~~(2) Twenty-five percent to the principal agency which assisted the administering agency in its investigation.~~

~~SEC. 2.~~—Section 25515.2 of the Health and Safety Code is amended to read:

25515.2. (a) All criminal penalties collected pursuant to this chapter shall be apportioned in the following manner:

(1) Fifty percent shall be paid to the office of the city attorney, district attorney, or Attorney General, whichever office brought the action.

(2) Fifty percent shall be paid to the agency which is responsible for the investigation of the action.

(b) All civil penalties collected pursuant to this chapter shall be apportioned in the following manner:

(1) Fifty percent shall be paid to the office of the city attorney, district attorney, or Attorney General, whichever office brought the action.

(2) Fifty percent shall be paid to the agency responsible for the investigation of the action.

(c) In all civil and criminal actions in which a penalty is imposed, the amount of two hundred dollars (\$200) shall be

deducted from the amount of the civil or criminal penalty before the amount is apportioned pursuant to subdivision (a) or (b). This two hundred dollars (\$200) shall be deposited in the Environmental Enforcement and Training Account, which shall be available for expenditure pursuant to Title 13 (commencing with Section 14300) of Part 4 of the Penal Code.

(d) If a reward is paid to a person pursuant to Section 25517, the amount of the reward shall be deducted from the amount of the criminal or civil penalty before the amount is apportioned pursuant to subdivisions (a), (b), and (c).

~~SEC. 3.~~

SEC. 2. The heading of Title 13 (commencing with Section 14300) of Part 4 of the Penal Code is amended to read:

TITLE 13. LOCAL ENVIRONMENTAL ENFORCEMENT  
AND TRAINING PROGRAMS

~~SEC. 4.~~

SEC. 3. Section 14300 of the Penal Code is amended to read:  
14300. (a) The Legislature finds and declares all of the following:

(1) The enforcement of California's environmental laws is essential to protect ~~public and worker~~ human health, the environment, and the state's economy.

(2) Fair and uniform enforcement of laws and regulations governing the environment benefits law abiding businesses, firms, and individuals.

(3) There is a need to better integrate enforcement of environmental laws into California's established criminal justice system.

(4) Local and state law enforcement agencies can play an increasingly important role in protecting ~~public and worker~~ human health, the environment, and the state's economy through greater involvement in the enforcement of environmental laws.

(5) Prosecuting violators of environmental laws often requires special training to detect violations, understand complex laws, and prepare and present complicated enforcement cases.

(6) There is a need to support programs that assist local and state enforcement officials in prosecuting violations of environmental laws through the training of peace officers, special

1 investigators, firefighters, public prosecutors, and state and local  
2 environmental regulators.

3 (7) Fair and uniform enforcement of environmental laws is  
4 multidisciplinary and involves law enforcement, fire departments,  
5 state and local environmental regulators, and the offices of local  
6 and state public prosecutors.

7 (b) For purposes of this title, the following definitions shall  
8 apply:

9 (1) “Account” means the Environmental Enforcement and  
10 Training Account created pursuant to Section 14303.

11 (2) “Commission” means the Commission on Peace Officer  
12 Standards and Training.

13 (3) “Agency” means the California Environmental Protection  
14 Agency.

15 (4) “Secretary” means the Agency Secretary for the California  
16 Environmental Protection Agency or his or her designee.

17 (5) “Environmental laws” means laws that impact public  
18 health and the environment, including, but not limited to, those  
19 that regulate toxic and carcinogenic materials, water quality, air  
20 quality, waste management, pesticides, and wildlife resources.

21 (6) “Public prosecutor” ~~includes, but is not limited to~~ means,  
22 district attorneys, city attorneys, *city prosecutors*, county counsels,  
23 and the Attorney General and his or her deputies.

24 (c) This title shall be known and may be cited as the  
25 Environmental Enforcement and Training Act of 2002.

26 (d) It is the intent of the Legislature that the funds to implement  
27 this title, as specified in Section 14314, come from public and  
28 private contributions, and from the proceeds from any contributed  
29 state or federal court judgments, and that no funds be expended  
30 from the General Fund, other than from the Environmental  
31 Enforcement and Training Account, or other funds appropriated  
32 to, or authorized for expenditure by, the agency, to implement this  
33 title. It is the intent of the Legislature that the funds to implement  
34 this title shall be expended only from the account. It is the intent  
35 of the Legislature that funding provided from the account shall  
36 supplement, not supplant existing funding.

37 ~~SEC. 5.~~

38 *SEC. 4.* Section 14301 of the Penal Code is amended to read:

39 14301. (a) There is hereby established in the agency, a  
40 program of financial assistance to do all of the following:

(1) Provide for statewide education and training programs in the enforcement of environmental laws for peace officers, investigators, state and local environmental regulators, and public prosecutors.

(2) Establish enhanced local environmental enforcement efforts.

(3) All funds made available to the agency for the purposes of this title shall be administered and distributed by the secretary.

(b) Not later than 12 months after the date when this title may be implemented, as specified in Section 14314, the secretary shall prepare and issue regulations, which shall, at a minimum, describe how grants are to be allocated or awarded pursuant to this title, the procedures for applying for these grants, the criteria to be used in determining which applications will be funded, and the administrative and fiscal requirements governing the receipt and expenditure of these grants.

(c) The secretary shall allocate and award funds to public agencies or private nonprofit organizations for purposes of supporting statewide environmental enforcement education and training programs for peace officers, investigators, state and local environmental regulators, and public prosecutors pursuant to Chapter 2 (commencing with Section 14304) and Chapter 3 (commencing with Section 14306), which meet the criteria established pursuant to those chapters. To ensure that these programs are coordinated with existing peace officer training, the commission shall be consulted prior to the allocation of funds to peace officer education and training programs.

(d) The secretary shall allocate and award funds to support the Environmental Circuit Prosecutor Project pursuant to Chapter 4 (commencing with Section 14309) for the purpose of improving enforcement of environmental laws by enhancing the investigation and prosecution of violations of those laws.

~~SEC. 6.~~

SEC. 5. Section 14303 of the Penal Code is amended to read:

14303. (a) There is hereby created, in the General Fund, the Environmental Enforcement and Training Account and ~~the money~~ *up to two million dollars (\$2,000,000)* in the account may be expended *annually* by the agency, upon appropriation by the Legislature, for the purposes of this title.

(b) The agency may accept and receive any contribution of funds from a public or private organization or an individual, including the proceeds from a judgment in state or federal court, when the funds are contributed to carry out the purposes of this title.

(c) The agency shall immediately deposit any funds contributed pursuant to subdivision (b) in the account.

(d) As of January 1, 2003, all unallocated funds in the Hazardous Materials Enforcement and Training Account created pursuant to Chapter 743 of the Statutes of 1992 shall be transferred to the Environmental Enforcement and Training Account.

~~SEC. 7.~~

SEC. 6. The heading of Chapter 2 (commencing with Section 14304) of Title 13 of Part 4 of the Penal Code is amended to read:

CHAPTER 2. PEACE OFFICER ENVIRONMENTAL ENFORCEMENT  
TRAINING

~~SEC. 8.~~

SEC. 7. Section 14304 of the Penal Code is amended to read:

14304. (a) The commission shall develop or review and certify, not later than 12 months after the date when this title may be implemented, as specified in Section 14314, a course or courses of instruction for training local and state peace officers in the detection of violations, and in the apprehension of suspected violators, of state and local environmental laws.

(b) The course or courses of instruction shall, at a minimum, include training on all of the following:

(1) Understanding environmental laws.

(2) Detecting violations of environmental laws.

(3) Knowing steps to take when violations are discovered in order to protect public health and facilitate prosecution of violators.

~~SEC. 9.~~

SEC. 8. The heading of Chapter 3 (commencing with Section 14306) of Title 13 of Part 4 of the Penal Code is amended to read:

CHAPTER 3. ENVIRONMENTAL TRAINING AND ENFORCEMENT

~~SEC. 10.~~

1     *SEC. 9.* Section 14306 of the Penal Code is amended to read:

2     14306. (a) The secretary shall provide funding to the  
3     California District Attorneys' Association to develop and  
4     implement, not later than 12 months after the receipt of funds, a  
5     course or courses of instruction for the training of public  
6     prosecutors in the enforcement of state and local environmental  
7     laws.

8     (b) The course or courses of instruction shall, at a minimum, do  
9     all of the following:

10    (1) Provide an understanding of the requirements of  
11    environmental laws.

12    (2) Teach prosecution techniques that will facilitate  
13    prosecution of environmental law violations.

14    (3) Provide environmental enforcement training materials.

15    ~~SEC. 11.~~

16    *SEC. 10.* Section 14307 of the Penal Code is amended to read:

17    14307. (a) The secretary shall provide funding to the  
18    California District Attorneys' Association to develop and  
19    implement, not later than 12 months after the receipt of funds, a  
20    course or courses of instruction for the training of investigators  
21    from the offices of public prosecutors, fire departments, and state  
22    and local environmental regulators.

23    (b) With the concurrence of the commission, peace officers  
24    may participate in the course or courses of training.

25    (c) The course or courses of instruction shall, at a minimum, do  
26    all of the following:

27    (1) Provide an understanding of the requirements of  
28    environmental laws.

29    (2) Teach enforcement investigative techniques that will  
30    facilitate the prosecution of environmental law violations.

31    (3) Provide environmental enforcement training materials.

32    ~~SEC. 12.~~

33    *SEC. 11.* Section 14308 is added to Chapter 3 of Title 13 of  
34    Part 4 of the Penal Code, to read:

35    14308. (a) The secretary may award grants to public and  
36    private entities for training public prosecutors, peace officers,  
37    firefighters, and state or local environmental regulators in the  
38    investigation and enforcement of environmental laws.

(b) The secretary may award local assistance grants to local environmental regulators for the enforcement of environmental laws.

~~SEC. 13.~~

*SEC. 12.* Chapter 4 (commencing with Section 14308) of Title 13 of Part 4 of the Penal Code is repealed.

~~SEC. 14.~~

*SEC. 13.* Chapter 4 (commencing with Section 14309) is added to Title 13 of Part 4 of the Penal Code, to read:

CHAPTER 4. ENVIRONMENTAL CIRCUIT PROSECUTOR PROJECT

14309. (a) The Environmental Circuit Prosecutor Project, a cooperative project of the California Environmental Protection Agency and the California District Attorneys Association, is hereby established.

(b) The Environmental Circuit Prosecutor Project shall have the following purposes:

(1) Discourage the commission of violations of environmental laws by demonstrating the effective response of the criminal justice system to these violations, including, but not limited to, assisting district attorneys, particularly in rural counties, in the prosecution of criminal violations of environmental laws and regulations, where a district attorney has requested assistance.

(2) Establish model environmental crime prevention, enforcement, and prosecution techniques with statewide application for fair, uniform, and effective application.

(3) Increase the awareness and effectiveness of efforts to enforce environmental laws and to better integrate environmental prosecution into California's established criminal justice system.

(c) The secretary shall award and administer funding from the account for the Environmental Circuit Prosecutor Project.

(1) An award shall include the funding for at least one public prosecutor and may include funding for one or more environmental investigators who shall assist the prosecutor in developing environmental enforcement cases.

(2) A district attorney may, as appropriate, deputize a circuit prosecutor to prosecute cases within his or her jurisdiction.

(d) Participating district attorney offices shall provide matching funds or in-kind contributions equivalent to, but not less

1 than, 20 percent of the expense of the deputized environmental  
2 circuit prosecutors.

3 ~~SEC. 15.~~

4 ~~SEC. 14.~~ Chapter 5 (commencing with Section 14309) of  
5 Title 13 of Part 4 of the Penal Code is repealed.

6 ~~SEC. 16.~~

7 ~~SEC. 15.~~ Chapter 6 (commencing with Section 14314) of  
8 Title 13 of Part 4 of the Penal Code is amended and renumbered  
9 to read:

10  
11 CHAPTER 5. IMPLEMENTATION AND FUNDING PRIORITIES

12  
13 ~~SEC. 17.~~

14 ~~SEC. 16.~~ Section 14314 of the Penal Code is amended to read:  
15 14314. Notwithstanding any other provision of this title, the  
16 agency shall not implement this title until there is an amount of one  
17 hundred thousand dollars (\$100,000) in the account.

18 Funds in the account shall be divided as follows:

19 (a) Twenty-five percent *or one hundred thousand dollars*  
20 *(\$100,000)* to the commission, *whichever is less*.

21 (b) Twenty-five percent to the secretary for *allocation to* the  
22 Environmental Circuit Prosecutor Project pursuant to Chapter 4  
23 (commencing with Section 14309).

24 (c) Twenty-five percent to the secretary for *allocation to* the  
25 California District Attorneys Association for training and  
26 assistance pursuant to Chapter 3 (commencing with Section  
27 14306).

28 (d) (1) ~~Twenty-five percent~~ *The balance* to the secretary for  
29 grants awarded ~~based on need~~ to programs pursuant to Chapter 3  
30 (commencing with Section 14306) or Chapter 4 (commencing  
31 with Section 14309) *based on need or in order to sustain the*  
32 *current level of presence and enforcement for those programs*.

33 (2) Notwithstanding paragraph (1), the commission may also  
34 seek additional funding from the money allocated in this  
35 subdivision based on need if the environmental law enforcement  
36 training is mandated or if there are substantial changes in the law  
37 that require the commission to revise its environmental law  
38 courses.

1 (e) The secretary shall develop an application process for  
2 awarding funds to programs pursuant to subdivisions (b), (c), and  
3 (d).

4 ~~SEC. 18.~~

5 *SEC. 17.* Section 14315 of the Penal Code is amended to read:

6 14315. Not later than 36 months after the date when this title  
7 may be implemented, as specified in Section 14314, the secretary  
8 shall submit a report to the Governor and the Legislature  
9 describing the operation and accomplishments of the training  
10 programs and the environmental enforcement and prosecution  
11 projects funded by this title. The commission shall prepare the  
12 section of the report pertaining to the course of instruction  
13 authorized in Section 14304 and submit it to the secretary for  
14 inclusion in the report.

15 *SEC. 18. This act represents the result of meetings among*  
16 *state agencies and stakeholders to craft a long-term solution for*  
17 *support of the Environmental Circuit Prosecutor Project, in*  
18 *accord with the Governor's directive regarding Assembly Bill 960*  
19 *of the 2001–02 Regular Session.*

